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14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16 **SAN FRANCISCO DIVISION**

17 DON C. BENNETT, COMERLIS
18 DELANEY, GARY ROBINSON, DARREN
SCOTT, JON HOTZLER, and PATRICK
19 NICASSIO, on behalf of themselves and all
others similarly situated,

20 Plaintiffs,

21 v.

22 SIMPLEXGRINNELL, LP,

23 Defendant.

Case No. 11-1854 JST (NJV)

**STIPULATION AND [PROPOSED] ORDER
FOR EXTENSION OF DEADLINE TO
RESPOND TO PLAINTIFFS' PARTIAL
MOTION FOR SUMMARY JUDGMENT**

Complaint Filed: April 18, 2011
First Amended

Complaint Filed: June 27, 2011
Second Amended

Complaint Filed: June 26, 2012
Third Amended

Complaint Filed: July 17, 2013

Trial Date: None Set
Judge: Honorable Jon S. Tigar

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Case No. 11-1854 JST (NJV)

STIPULATION AND [PROPOSED] ORDER FOR EXTENSION OF TIME TO OPPOSE PLAINTIFFS' MOTION
FOR PARTIAL SUMMARY JUDGMENT

1 WHEREAS Plaintiffs served their expert disclosure on August 28, 2013 and designated
 2 Douglas Nareau, Esq. as one of their experts. Mr. Nareau had not been previously disclosed as a
 3 fact witness;

4 WHEREAS, on the same date that Plaintiffs disclosed Mr. Nareau as an expert witness,
 5 Plaintiffs filed a Motion for Partial Summary Judgment. In support of Plaintiffs' Motion, Plaintiffs
 6 relied upon a declaration submitted by Mr. Nareau. Plaintiffs also intend to provide an expert
 7 report from Mr. Nareau on September 30, 2013;

8 WHEREAS under the present schedule, Defendant's Opposition to Plaintiffs' Motion for
 9 Partial Summary Judgment is due on September 11, 2013. However, Defendant has not had the
 10 opportunity to conduct any discovery related to Mr. Nareau, and thus it is unable to provide any
 11 deposition testimony from Mr. Nareau in response to the opinion testimony he has provided in his
 12 Declaration;

13 WHEREAS Defendant has informed Plaintiffs that it wishes to take Mr. Nareau's
 14 deposition, so that it may either respond to the statements contained in his declaration or seek other
 15 appropriate relief;

16 WHEREAS the Parties have met and conferred about this issue, the Parties agree that it is
 17 not desirable for Mr. Nareau to be deposed both before and after he provides his expert report.
 18 Consequently, Plaintiffs have consented to an extension of SimplexGrinnell's deadline to file its
 19 opposition to Plaintiffs' Motion for Partial Summary Judgment until after it takes the deposition of
 20 Mr. Nareau; and

21 WHEREAS the pretrial schedule issued by this Court on June 27, 2013 did not include a
 22 deadline for dispositive motions, such as SimplexGrinnell's Motion for Summary Judgment;

23 IT IS THEREFORE STIPULATED AND AGREED AS FOLLOWS:

24 1. Upon the approval of the Court, SimplexGrinnell's deadline to oppose Plaintiffs'
 25 Motion for Partial Summary Judgment shall be November 7, 2013; and

26 2. The hearing date for Plaintiffs' Partial Motion for Summary Judgment shall be
 27 Thursday, December 5, 2013, ~~or such other date as the Court deems just.~~

28 3. The deadline for expert disclosures and all other pretrial deadlines set forth in the

1 Court's June 27, 2013 Scheduling Order shall remain unaffected.

2 4. The deadline for filing dispositive motions in this case is December 17, 2013.

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4 Dated: September 4, 2013

Respectfully submitted,

5 By: /s/ Bruce Menken

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16 *Attorneys for Plaintiffs and Proposed Class*

17 Dated: September 4, 2013

18 By: /s/ Dominick Capozzola

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1 **ATTESTATION**

2 Pursuant to General Order 45(X), I attest that concurrence in the filing of this document has
3 been obtained from each of the other signatories.

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5 Dated: September 4, 2013

By: /s/ Dominick Capozzola

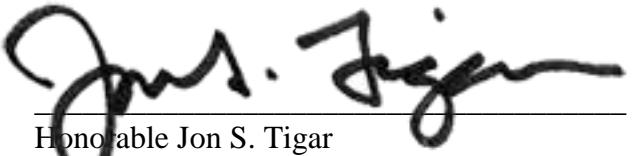
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1 **{PROPOSED} ORDER**

2 Pursuant to the Stipulation of the parties and GOOD CAUSE APPEARING, IT IS SO
3 ORDERED.

4 DATED: September 4, 2013

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Honorable Jon S. Tigar
6 United States District Court Judge

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